

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 3, 2022

1:47 p.m.

DRAFT

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Shelley Hughes, Vice Chair
Senator Mia Costello
Senator Lora Reinbold
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 132

"An Act exempting veterinarians from the requirements of the controlled substance prescription database."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 133 (L&C)

"An Act relating to the Alaska savings program for eligible individuals; relating to education savings programs; relating to the Education Trust of Alaska; relating to the Alaska advance college tuition savings fund; relating to the Alaska education savings program for children; and relating to the Governor's Council on Disabilities and Special Education."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 132

SHORT TITLE: CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

SPONSOR(S): SENATOR(S) HOLLAND

04/28/21	(S)	READ THE FIRST TIME - REFERRALS
04/28/21	(S)	HSS, L&C
02/03/22	(S)	HSS AT 1:30 PM BUTROVICH 205

BILL: HB 133

SHORT TITLE: AK ED SAVINGS PROGRAMS/ELIGIBILITY

SPONSOR(s): LABOR & COMMERCE

03/10/21	(H)	READ THE FIRST TIME - REFERRALS
03/10/21	(H)	L&C, FIN
03/17/21	(H)	L&C AT 5:45 PM BARNES 124
03/17/21	(H)	<Bill Hearing Canceled>
03/19/21	(H)	L&C AT 3:15 PM BARNES 124
03/19/21	(H)	Heard & Held
03/19/21	(H)	MINUTE(L&C)
03/24/21	(H)	L&C AT 3:15 PM DAVIS 106
03/24/21	(H)	Moved CSHB 133(L&C) Out of Committee
03/24/21	(H)	MINUTE(L&C)
03/24/21	(H)	L&C AT 5:45 PM DAVIS 106
03/24/21	(H)	-- MEETING CANCELED --
03/25/21	(H)	L&C RPT CS(L&C) 6DP 1NR
03/25/21	(H)	DP: SNYDER, SCHRAGE, MCCARTY, NELSON, SPOHNHOLZ, FIELDS
03/25/21	(H)	NR: KAUFMAN
04/07/21	(H)	HSS REPLACES FIN REFERRAL
04/07/21	(H)	BILL REPRINTED
04/20/21	(H)	HSS AT 3:00 PM DAVIS 106
04/20/21	(H)	Heard & Held
04/20/21	(H)	MINUTE(HSS)
04/22/21	(H)	HSS AT 3:00 PM DAVIS 106
04/22/21	(H)	Moved CSHB 133(L&C) Out of Committee
04/22/21	(H)	MINUTE(HSS)
04/26/21	(H)	HSS RPT CS(L&C) 5DP 1NR
04/26/21	(H)	DP: FIELDS, SPOHNHOLZ, MCCARTY, ZULKOSKY, SNYDER
04/26/21	(H)	NR: KURKA
05/07/21	(H)	TRANSMITTED TO (S)
05/07/21	(H)	VERSION: CSHB 133(L&C)
05/10/21	(S)	READ THE FIRST TIME - REFERRALS
05/10/21	(S)	HSS, L&C
02/03/22	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR ROGER HOLLAND
Alaska State Legislature,
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 132.

NIKKI ROSE, Staff
Senator Roger Holland

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 132 on behalf of the sponsor.

DR. RACHEL BERNGARTT, Chair
Alaska State Board of Veterinary Examiners
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Co-presented Why It Makes Sense to Exempt Veterinarians.

DR. TRACY WARD, President
Alaska State Veterinary Medical Association
Juneau, Alaska

POSITION STATEMENT: Co-presented Why It Makes Sense to Exempt Veterinarians.

SARA CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions on SB 132.

DR. SARAH COBURN, Board Member-at-Large
Alaska Veterinary Medical Association
Anchorage, Alaska

POSITION STATEMENT: Testified by invitation on SB 132.

DR. JAMES DELKER, representing self
Alaska State Veterinary Association
Soldotna, Alaska

POSITION STATEMENT: Testified by invitation on SB 132.

DR. MARY ANN HOLLIICK, representing self
Eagle River, Alaska

POSITION STATEMENT: Testified in support of SB 132.

DR. MCKAYLA DICK, former President
Alaska State Veterinary Medical Association
North Pole, Alaska

POSITION STATEMENT: Testified by invitation on SB 132.

dr. ARIANNA ANDERSON, representing self
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 132.

DR. JON BASLER, Medical Director
College Village Animal Clinic
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 132.

REPRESENTATIVE ZACK FIELDS,
Alaska State Legislator
Juneau, Alaska

POSITION STATEMENT: As Co-Chair presented HB 133 on behalf of the House Labor and Commerce Standing Committee.

TRISTAN WALSH, Staff
Representative Zack Fields
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 133.

CATHY TAYLOR, Board Member
Alaska Behavioral Health
Kenai, Alaska

POSITION STATEMENT: Testified by invitation on HB 133.

DAN SADLER, former state Representative
Eagle River, Alaska

POSITION STATEMENT: Testified by invitation on HB 133.

ACTION NARRATIVE

[1:47:40 PM](#)

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:47 p.m. Present at the call to order were Senators Reinbold, Begich, and Chair Wilson. Senators Hughes and Costello arrived shortly thereafter.

SB 132-CONTROLLED SUB. DATA: EXEMPT VETERINARIAN

[1:48:29 PM](#)

CHAIR WILSON announced the consideration of SENATE BILL NO. 132 "An Act exempting veterinarians from the requirements of the controlled substance prescription database."

[1:48:39 PM](#)

SENATOR COSTELLO and **SENATOR HUGHES** joined the committee.

[1:48:40 PM](#)

SENATOR ROGER HOLLAND Alaska State Legislature, Juneau, Alaska, sponsor of SB 132, introduced the legislation by reading the sponsor statement:

Alaska's 25th legislature created the Prescription Drug Monitoring Program (PDMP) in 2008. The legislative intent behind the PDMP was to create a database of prescriptions for controlled substances in the state. The PDMP may create obstacles for individuals seeking opioids to obtain multiple prescriptions from registered providers and may be a useful tool for human doctors in combating the opioid crisis. Under the current statutory framework, Alaska's veterinarians are required to participate in the PDMP, despite the irreconcilable differences between human and veterinary medical practice. PDMPs have been implemented in all 50 states, but 34 states have recognized the unsuitability of veterinary participation in the PDMP and exempted veterinarians. SB 132 would add Alaska to that list.

The majority of states exempt veterinarians from PDMP because they have recognized that PDMPs are designed for use in human medicine; and veterinary exclusion from PDMPs does not increase risk to the public. Alaska's inclusion of veterinarians in the PDMP has produced no identifiable benefit; yet the PDMP has created a multitude of verifiable harms to the veterinary profession and the Alaskans they serve. The PDMP is inappropriate and not effective for use with animal patients, as animals do not have identifiers such as a social security number, and veterinarians must view human owners' private health data before treating an animal.

Alaska has the highest veterinary licensure cost in the United States. Veterinary participation in the PDMP contributes to this unnecessary financial burden on a profession already experiencing extreme staffing shortages, decreasing availability of veterinary services to Alaskans. Moreover, a recent survey found attempted veterinary doctor shopping across the entire United States is essentially non-existent.

Veterinarians are tightly regulated by the Drug Enforcement Agency, the Know Your Customer Act, and the State licensing board. SB 132 seeks to correct an

expensive overreach so that Alaskans can have access to treatment for their pets without compromising public safety.

[1:51:50 PM](#)

SENATOR BEGICH thanked the sponsor for introducing the bill and relayed that he reviewed the evidence and changed his mind about requiring veterinarians to participate in the Prescription Drug Monitoring Program (PDMP). Clearly it is an unnecessary burden and does not serve the intended purpose.

[1:52:49 PM](#)

NIKKI ROSE, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, read the sectional analysis for SB 132:

[Original punctuation provided with minor formatting changes.]

Sec. 1

AS 17.30.200(o), relating to the controlled substance prescription database, is amended by deleting the Board of Veterinary Examiners from the list of required notification by the Board of Pharmacy when a practitioner registers with the database.

Sec. 2

Adds veterinarians to the list of practitioners not required to comply with the controlled substance prescription database under AS 17.30.200(t).

Sec. 3

Adds a definition of "practitioner" to AS 17.30.200(u)

Sec. 4

Repeals AS 08.98.050(a)(10), which obligates the board of veterinary examiners to require licensees to register with the controlled substance prescription database.

[1:54:23 PM](#)

CHAIR WILSON turned to invited testimony.

[1:54:35 PM](#)

At ease.

[1:54:59 PM](#)

CHAIR WILSON reconvened the meeting and asked Dr. Berngartt to proceed.

1:55:09 PM

DR. RACHEL BERNGARTT, Chair, Alaska State Board of Veterinary Examiners, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska stated that she has practiced veterinary medicine in Alaska for 20 years in a wide variety of fields.

DR. TRACY WARD, President, Alaska State Veterinary Medical Association, Juneau, Alaska, stated that she has practiced veterinary medicine for 32 years in several fields and also spent considerable time in the pharmaceutical industry. She is currently a small animal practitioner and in several months will transition to a shelter veterinarian.

DR. WARD stated that both the Alaska State Veterinary Medical Association and the Alaska Board of Veterinary Examiners strongly support SB 132. As the sponsor indicated, Alaska's PDMP was established in 2008. In response to the growing opioid epidemic, the PDMP was amended in 2017 to require participation by all federal Drug Enforcement Administration (DEA) permit holders, including veterinarians. Veterinarians were not consulted when the amendment was proposed.

1:57:06 PM

DR. WARD stated that the PDMP is not an effective database for veterinarians. It was established for human medicine and the software does not interface with the recordkeeping software that veterinarians use. Querying and downloading data is not automatic for veterinarians and the data is based on human identifiers such a Social Security number or date of birth. This caused some confusion before it became clear that veterinarians were supposed to query the animal owner's prescription data when they prescribed a controlled substance for the animal. This is despite the fact that the information is not useful to veterinarians because they are not trained in human medicine and dosages do not translate from one field to the other. The data a veterinarian enters into the PDMP for an animal patient is similarly not useful for a medical doctor.

DR. WARD pointed out that it is also an invasion of the animal owner's medical privacy to have a veterinarian query their personal medical data in the PDMP. This creates an uncomfortable situation because the client is not a patient and veterinarians are not trained in or bound by the federal Health Insurance

Portability and Accountability Act (HIPPA) Privacy Rule. She directed attention to the list of medications on slide 5 that medical doctors may have prescribed for their client's that veterinarians have no use for but are able to see.

2:00:54 PM

SENATOR BEGICH stated that he found this point particularly compelling because it was not the intent of the 2017 change to the PDMP law. Veterinarians who are not bound by HIPAA have access to the animal owner's private prescription data that their medical doctor entered into the PDMP. He described this as an unintended consequence.

SENATOR REINBOLD recalled that she voted "No" on the 2017 legislation.

DR. WARD explained that while the 2017 legislation sought to address growing opioid abuse, the PDMP was never intended to prevent the diversion of controlled substances to the illicit market. It was intended to prevent individuals from going to multiple doctors and later veterinarians to access controlled substances for their own use or for diversion. Backdoor or diversion sales are never entered into the PDMP. She said the PDMP is strictly intended for shopping. The Drug Enforcement Agency (DEA) is primarily responsible for preventing diversion. Veterinarians who prescribe or dispense controlled substances are licensed through the DEA and must adhere to strict accountability, record keeping, and medication storage requirements. Those records must be available to the DEA on demand and local law enforcement agencies may also request access.

DR. WARD continued to explain that manufacturers and distributors of controlled substances are bound by the Suspicious Order Monitoring System. These companies must monitor, flag, and report a veterinarian's unusual purchase patterns to the DEA. She drew a parallel to a credit card company calling clients to ask about unusual/potentially fraudulent charges on their card. She said the DEA is already providing oversight of veterinarians and this is the most common way that diversion situations are identified.

DR. WARD deferred to Dr. Berngartt to continue the presentation.

2:04:52 PM

DR. BERNGARTT turned to slide 7 and restated that 34 states already have exempted veterinarians from participating in the

PDMP and no problems have been identified. Public health and safety protections have not decreased and there has been no demonstrated increase in doctor shopping or decrease in diversions. Exempting Alaskan veterinarians from the PDMP requirements makes sense, she said.

[2:06:22 PM](#)

DR. BERNGARTT reported that veterinarians prescribe less than one percent of the opioids prescribed by all medical professionals in Alaska. That one percent does not include fentanyl, heroin, or methadone because these drugs are not prescribed in veterinary practice. This is consistent with nationwide data. Further, the one percent is not comprised of the drugs that significantly contribute to addiction, overdose, and accidental death. She also described the natural barrier to veterinary shopping that hospitals do not enjoy. Hospitals are required to treat all patients regardless of ability to pay, whereas animal owners must pay up front for the care, even if they have pet insurance. She described a typical appointment to demonstrate that veterinarians are a poor choice for individuals who are trying to score opioids or other more dangerous controlled substances. She emphasized that there have been no identified cases of veterinary shopping in Alaska through the PDMP.

[2:10:52 PM](#)

CHAIR WILSON asked her to be cognizant of the time.

DR. BERNGARTT highlighted that investigative costs associated with the PDMP are very burdensome to veterinarians. The Alaska Board of Veterinary Examiners is mandated to investigate veterinarians who do not comply with the requirement of the Prescription Drug Monitoring Program. She directed attention to the chart on slide 9 that shows that the board's costs to investigate PDMP violations rose exponentially from FY2017 to FY2021. She clarified that these are not investigations involving negligence or bad behavior. Rather, they are technical violations that reflect the difficulty associated with using an unusable system.

DR. BERNGARTT highlighted that the veterinary board is self-supporting so it is the licensees who pay when investigative costs go up. Alaska already has the highest licensing fees for veterinarians in the country. There is already a severe shortage of veterinarians and veterinary technicians in the country, particularly in Alaska. She emphasized that the actual risk of

veterinary shortage to public health far outweighs the theoretical risk of exempting veterinarians from the PDMP.

DR. BERNGARTT concluded the presentation by recounting the advantages of exempting veterinarians from participating in the PDMP. She paraphrased the following points:

Will allow veterinarians to provide the appropriate, timely, medical management appropriate for each patient.

Will increase the efficiency of the PDMP system for its intended purpose, by allowing for accurate interpretation of data and trends in human medicine.

Will allow continued judicious use of controlled substances that is already practiced by veterinarians.

Will eliminate unnecessary and disproportionate business burdens for veterinarians.

DR. BERNGARTT identified the PDMP as a tool in the toolbox that does not work for veterinarians.

[2:13:55 PM](#)

CHAIR WILSON noted who was available to answer questions.

SENATOR REINBOLD commented on the small number of veterinarians and veterinary technicians in the state compared to the large number of animals. She voiced support for lightening their load.

[2:14:53 PM](#)

CHAIR WILSON asked what the potential decrease in licensing fees would be, should SB 132 pass.

[2:15:13 PM](#)

SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development, Juneau, Alaska, explained that a federal grant pays most of the PDMP costs and the ancillary investigative costs are difficult to anticipate. Therefore, the division will need to perform an annual analysis to ensure that program fees match the expenses.

She related that costs increased in 2022 because a large number of veterinarians were not using the program and that triggered a

data investigation. She said that proved to be an anomaly and the division changed some processes...

CHAIR WILSON noted the call was dropped and suggested she try to call again.

[2:16:42 PM](#)

CHAIR WILSON asked for confirmation that veterinarians do have access to dangerous medications such as Propofol, but it is not prescribed after a procedure.

DR. WARD answered that is correct. The majority of controlled substances are administered to the animal in the clinic either as pre-operative anesthetic or post-operative pain control. Propofol would not be sent home with the animal.

[2:17:39 PM](#)

CHAIR WILSON opened invited testimony on SB 132.

DR. SARAH COBURN, Board Member-at-Large, Alaska Veterinary Medical Association, Anchorage, Alaska, stated that she has been a veterinarian for 13 years and she worked in the profession for 10 before that. She described SB 132 as good public policy that has broad bipartisan support. She said the PDMP was designed to identify doctor shopping by humans who are seeking controlled substances and it was a broad oversight to include veterinarians. The mandates are not relevant and have no practical utility in fighting opioid abuse. She suggested letting the PDMP do what it does well in human medicine. Veterinarians will continue to practice in accordance with state and federal laws, professional ethics, and national guidelines when prescribing controlled substances for animals. She urged the committee to pass SB 132.

[2:20:33 PM](#)

DR. JAMES DELKER, Legislative Liaison, Alaska Veterinary Medical Association (AVMA), Soldotna, Alaska, stated that he has practiced veterinary medicine for more than 25 years and with his wife has owned a practice for 19 years. He related that he has served as an unpaid volunteer on the Alaska Veterinary Medical Association board since 2010.

DR. DELKER stated that AVMA identified numerous problems with the PDMP and attempted to share those concerns with the Board of Pharmacy during their November 21, 2013 meeting. During his testimony he asked how veterinarians could be expected to comply with a system that was based on human identifiers. He said he

cited a study from Minnesota that documented minute amounts of [veterinary] doctor shopping in a more populated state with many more veterinarians. His testimony also pointed out that the PDMP database would only collect useless data from veterinarians that were forced to participate. The board subsequently decided not to support veterinarians' view on the issue but no details were given for the decision.

DR. DELKER stated that eight years has passed and the issues he presented are still problematic. Veterinarians have never had a seat at the table in any facet of the development of the PDMP, although they have articulated the pitfalls from the outset. The result is that veterinarians are burdened with daily manual reporting even on days that they do not prescribe controlled substances. He reported that some veterinarians found that the data they entered did not show up in the system when it was accessed for a subsequent prescription. This is a waste of time and shows a lack of respect for these licensed professionals. He asked the committee to remove the PDMP burden from veterinarians by passing SB 132.

SENATOR REINBOLD thanked Dr. Delker for his volunteer services and dedication.

2:25:20 PM

CHAIR WILSON opened public testimony on SB 132.

DR. MARY ANN HOLLICK, representing self, Eagle River, Alaska, asked the committee to support SB 132 because it makes sense and is good public policy. She related that she previously owned a veterinary practice and currently represents Alaskan veterinarians on the American Veterinary Medical Association. She stated that veterinarians treat animals and the PDMP was created for the human healthcare system. In 34 years of practice seeing thousands of patients, she said she has not seen any drug shopping behavior. She also pointed out that 34 states have already exempted veterinarians from the PDMP. Opioids generally are not the veterinarian's drug of choice and commonly abused drugs are not sent home with the animal and owner. She said it is important for Alaska animal owners to understand that if their animal needs a controlled substance dispensed or prescribed, the PDMP requires the veterinarian to look at the pet owner's personal, private history of controlled drugs even though that information is not relevant to the treatment of the animal. It also has no practical utility in the fight against opioid abuse. She asked the committee to pass SB 132.

2:27:11 PM

DR. MCKAYLA DICK, former President, Alaska State Veterinary Medical Association, North Pole, Alaska, stated that she is a mixed animal practitioner who also does emergency and shelter medicine. She stated that for multiple reasons the PDMP is not suitable for veterinary medicine. It was designed to monitor drug shopping by humans, which is nonexistent in the veterinary profession. When animal patients are prescribed an opioid, it is a tiny dose and is not the opioids that are causing overdosing in humans. When an opioid is administered in a veterinary hospital, the drug does not go home. She said veterinarians are under strict guidance by the DEA and Board of Veterinary Examiners and they work closely with local animal control agencies. She described the requirement to look at an owner's private prescription drug information as awkward and increased work. Ultimately it will be costly to license holders because the federal grants will not last forever. She asked the committee to join the other 34 states and pass SB 132.

2:30:02 PM

DR. ARIANNA ANDERSON, representing self, Juneau, Alaska, stated that she is a substitute and relief veterinarian who travels throughout Alaska. She offered her belief that the PDMP requirement for veterinarians is potentially harmful to animal owners and definitely burdensome and useless for veterinarians. She explained that when she prescribes a controlled drug to an animal she is supposed to look at the owner's private medical information in the PDMP database. This is inappropriate according to HIPAA and if she sees they have controlled drug prescriptions she is not trained to evaluate the information. She noted that an owner may have more difficulty getting their own prescriptions filled if their pet was prescribed a similar controlled substance. She said it takes time to enter the prescription data into the PDMP and she is required to report even if she does not write prescriptions every day. Like many veterinarians she has chosen to dispense just 72 hours of medication to avoid the reporting requirement even though many patients need more. She related that veterinarians are in short supply statewide, but particularly in Juneau, and the time spent on the PDMP when it provides no benefit to the animal means more sick patients and worried clients will be turned away. She asked the committee to support the exemption of veterinarians by passing SB 132.

2:32:26 PM

DR. JON BASLER, Medical Director, College Village Animal Clinic, Anchorage, Alaska, related that the clinic has three fulltime

veterinarians and two who work part time. They have conscientiously complied with the Alaska PDMP requirements since 2017. This is despite the fact that the database provides no useful information for the clinic's patients or in identifying or avoiding inappropriate use by the animal owners. He said it took several years of actively recording patient information before the data started to show in future queries. Further, despite having medical records that show a patient was seen and had received prescriptions in another clinic, the information never shows in a PDMP query. He stated that the DEA requires veterinarians to extensively document and control any drugs that are prescribed or dispensed. Recordkeeping is done daily, verified weekly, and clinically crosschecked anytime a new bottle of drug is opened. Complete inventories are conducted quarterly. All controlled drugs are ordered under his DEA and veterinary licenses and he maintains tight control. The prescribing veterinarians do the verification with the PDMP. He said the PDMP requires daily reporting by each provider even if they do not dispense any controlled drug. He now prescribes less effective drugs and shorter prescription times to avoid the reporting burdens and risks.

He noted that the veterinarian pharmacy board has said there are enough licensed technicians to do this work but that is not accurate. There is a critical shortage of both veterinarians and veterinary technicians. He shared that in 3.5 years of advertising for a technician the clinic has received just one application.

DR. BASLER encouraged the committee to pass SB 132. He also advocated for the expansion of the UA MatSu Veterinary Assistant Program into a full veterinary technology program.

DR. BASLER concluded his testimony stating that the PDMP is ineffective for veterinary patients and their owners, is burdensome, and is of little benefit in preventing diversion.

[2:36:30 PM](#)

CHAIR WILSON closed public testimony on SB 132.

CHAIR WILSON advised that the committee would accept written comments on SB 132 at shss@akleg.gov until Monday at 5:00 p.m.

CHAIR WILSON asked Sara Chamber to respond to Senator Begich's question.

[2:37:03 PM](#)

SENATOR BEGICH asked if any of the investigations on PDMP violations indicated misuse of a controlled substance. He noted that in 2017 when the Alaska PDMP was amended to include veterinarians the assumption was that this might happen.

[2:37:48 PM](#)

SARA CHAMBERS stated that she would follow up with specific data, but she did not recall an instance since 2017 of a violation of a controlled substance by a veterinarian or veterinary technician.

SENATOR BEGICH noted the heads nodding that supported those comments.

[2:38:50 PM](#)

SENATOR HOLLAND thanked the committee for hearing the bill and opined that 34 other states cannot be wrong.

CHAIR WILSON asked members to submit any amendments by Monday February 7 at 5:00 p.m.

He held SB 132 in committee.

[2:39:42 PM](#)

At ease

HB 133-AK ED SAVINGS PROGRAMS/ELIGIBILITY

[2:41:34 PM](#)

CHAIR WILSON reconvened the meeting and announced the consideration of SENATE BILL NO. 133 "An Act relating to the sale or lease of state land for remote recreational sites; relating to permits for remote recreational sites; and providing for an effective date."

[2:41:54 PM](#)

REPRESENTATIVE ZACK FIELDS, Alaska State Legislator, Juneau, Alaska, speaking as co-chair of the House Labor and Commerce Standing Committee, described HB 133 as a team effort. He advised that the presentation would include the substance as well as related history of the legislation.

REPRESENTATIVE FIELDS explained that ABLE is the acronym for Achieving a Better Life Experience Act. An ABLE account is a tax-free savings account for individuals with qualifying disabilities. Funds deposited to the account may be used to pay for items such as disability expenses, education, housing, and

transportation. Further, deposits into the account are not counted against an individual in determining eligibility for Medicaid and needs-based assistance programs. The intention is to help people with disabilities work, support themselves, and live as independently as possible.

[2:42:51 PM](#)

REPRESENTATIVE FIELDS stated that the ABLE Act of 2013 was signed into federal law in December 2014. Thereafter, Representative Saddler and Senator Giessel introduced legislation to establish ABLE accounts in Alaska. He reported that since the legislation passed [in 2016], 787 Alaska families have established ABLE accounts. About 180 of those accounts were opened since HB 133 was heard last, and the assets in all the accounts totals \$7 million. He recognized Pam Leary with the Department of Revenue (DOR) who has overseen the program since its inception.

REPRESENTATIVE FIELDS relayed that since the initial law passed, the federal government updated and expanded ABLE authorities. He noted that one of the changes increased the contribution level [for employed beneficiaries] from \$15,000 to [\$27,060]. The federal law also allowed college saving account funds [529 accounts] to roll over into ABLE accounts. Additionally, the age of eligibility for an ABLE account was increased from 26 to 46. He described the latter change as sensible because a disability can occur at any time.

[2:45:14 PM](#)

REPRESENTATIVE FIELDS summarized that updates proposed in HB 133 conform to federal law by: expanding the age eligibility limits; allowing greater flexibility in using funds to pay for educational expenses; allowing 529 program accounts to roll into an ABLE account; and aligning with federal regulations regarding program savings accounts

[2:46:08 PM](#)

CHAIR WILSON noted who was available to answer questions. He asked Mr. Walsh to walk through the sectional analysis.

[2:46:29 PM](#)

TRISTAN WALSH, Staff, Representative Zack Fields, Alaska State Legislature, Juneau, Alaska, provided a summary of the sectional analysis for HB 133. The full analysis read as follows:

[Original punctuation provided with some formatting changes.]

Section 1 Establishes AS 06.65.020(b) .

Directs the Department of Health and Social Services to consult with the Governor's Council on Disabilities and Special Education when overseeing the Alaska Savings Program.

Section 2 Amends AS 06.65.100.

Expands the age of eligibility for a program account from age 26 to match that in the federal authorizing law. This effectively removes an age cap that prevented those who became disabled after 26 years of age from being eligible.

[2:47:40 PM](#)

Section 3 Amends AS 06.65.160(a) .

Expands the rules allowing a person to make a contribution for a designated beneficiary to match the guidelines in AS 14.40.802(f)(3) .

Section 4 Amends AS 06.65.160(c) .

Expands the rules regarding who is eligible to make a program account contribution to match the guidelines in AS 14.40.802(f)(3) .

Section 5 Amends AS 06.65.200(a) .

Specifies that rollover may occur between a program account to another account as long as the new account is authorized by federal law.

Section 6 Amends AS 09.38.015(a)(8) .

Replaces "higher education" savings account with "education savings account".

Section 7 Amends AS 14.10.170(a) .

Replaces "postsecondary education" with "education" when referring to an education savings account and renames the "Alaska Higher Education Savings Trust" to the "Education Trust of Alaska".

Section 8 Amends AS 14.40.802(a) .

Renames the "Alaska Higher Education Savings Trust" to the "Education Trust of Alaska" and replaces "postsecondary education" with "education" when referring to education savings accounts. Removes the allowance that education savings accounts can be used to pay for room and board when using funds for

education costs as this language is included already included federal law.

Section 9 Establishes AS 14.40.802(f)(3).

Allows a participant of an account to change the beneficiary of their account to any individual, not just a family member. Allows participants to transfer all or a portion of their account as a contribution to another account if it does not exceed federal limits when added to any other contributions and is for the beneficiary of that new account or for a family member who is an eligible individual as well.

Section 10 Amends AS 14.40.802(g).

Makes transfers between accounts limitable or deniable if the transfer does not meet the guidelines established in AS 14.40.802(f)(3).

[2:48:26 PM](#)

Section 11 Amends AS 14.40.802(j).

Removes the restriction that when a beneficiary designates a successor participant to their account the change cannot take effect until after the death or mental incapacity of the beneficiary.

Section 12 Amends AS 14.40.802(n)(2).

Redefines "beneficiary" to match what is defined under federal law.

Section 13 Amends AS 14.40.802(n)(7).

Replaces "qualified higher education expenses" with "qualified education expenses" and redefines the phrase to mean qualified higher education expenses as defined in federal law.

Section 14 Amends AS 14.40.802(n)(8).

Redefines "trust" to reflect the name change of "Alaska Higher Education Savings Trust" to the "Education Trust of Alaska".

Section 15 Amends AS 14.40.809(b).

Renames the "Alaska Higher Education Savings Trust" to the "Education Trust of Alaska".

Section 16 Amends AS 40.25.120(a).

Renames the "Alaska Higher Education Savings Trust" to the "Education Trust of Alaska".

Section 17 Amends AS 47.10.093(b).

Removes the distinction of higher education when referring to the Alaska education savings program.

Section 18 Amends AS 47.12.310(b).

Removes the distinction of higher education when referring to the Alaska education savings program.

Section 19 Amends AS 47.14.400(a).

Removes the distinction of higher education when referring to an education investment program and replaces "University of Alaska college savings plan" with "education savings plan".

Section 20 Amends AS 47.14.400(b).

Removes the distinction of higher education when referring to an education investment program.

Section 21 Amends AS 47.14.400(c).

Replaces "college savings plan" with "education savings plan" and replaces "University of Alaska College savings plan" with "education savings plan".

Section 22 Amends AS 47.14.400(e)(3). Replaces "higher education savings program" with "education savings program" and "college savings account" with "education savings plan".

Section 23 Establishes AS 47.14.400(e)(5). Defines "education savings plan" to mean an education savings program.

Section 24 Repeals AS 47.14.400(e)(2).

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CHAIR WILSON turned to invited testimony.

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KATHY TAYLOR, Board Member, Alaska Behavioral Health, Kenai, Alaska, stated that she has served on the board for more than ten years. She has two sons with disabilities and the ABLE program has been very beneficial but the \$2,000 limit on resources has made it difficult for family and friends to offer support to help her sons be more self-sufficient.

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MS. TAYLOR stated that raising the contribution level from \$15,000 to \$27,060 has been helpful for one of her sons who experiences mental illness and finds it difficult to maintain employment. With the higher limit, he will be able to put additional funds aside when he is working so he can draw on them in the future if he is no longer employed. It will help him maintain a measure of independence.

She stated support for the provision that allows rolling college savings into an ABLE account. She explained that the onset of mental illness often is in a person's 20s when they are in college. If their college funds are rolled into an ABLE account, they will be able to use them to help stabilize their life and get back on their education track if that is what they want to do.

MS. TAYLOR agreed with the sponsor that it made sense to increase the age of eligibility for an ABLE account from 26 to 46 because disability can strike at any time. She mentioned the flexibility to pay for higher education and offered her view that it may be easier to get one's arms around vocational or associate degree programs than a four-year degree program. But in any event, the flexibility allows someone to keep their resources then use them when they get back on their feet.

MS. TAYLOR shared that she has been able to incorporate the ABLE accounts for her sons into her estate planning and the changes reflected in SB 133 will make the program even better for people experiencing disability to improve their life situation.

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DAN SADLER, former Representative, Alaska State Legislature, Eagle River, Alaska, reminded the committee that he sponsored the original legislation in 2016 that authorized ABLE accounts. He shared that he supported ABLE as a legislator and a parent. His son Danny has autism and at age 23 is transitioning into adult life. He needs special behavioral support, special equipment for his physical needs, supplementary educational services, employment support services, and healthy recreational outlets. He said these are qualified disability expenses that will help him achieve a better life experience. He highlighted how important it is that deposits into an ABLE account would not disqualify his son from Medicaid or Supplemental Social Security (SSI) benefits, because both are critical in meeting his life needs.

REPRESENTATIVE SADDLER opined that that ABLE accounts clearly have been successful in Alaska. According to a report in the bill packets, there are 787 ABLE accounts in Alaska and the private distributions to those accounts totals \$7 million. He posited that this has kept many individual from seeking support from the state. He mentioned the other conforming changes and described HB 133 as legislation that makes the existing law better.

He concluded his comments with the observation that legislators often are faced with how to allocate limited public assets among limitless needs. The value of HB 133 is that it empowers private citizens to use their own money to take better care of loved ones without cost or burden to the state.

CHAIR WILSON thanked him for his service to the state and his testimony.

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CHAIR WILSON held HB 133 in committee.

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There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee meeting at 3:01 p.m.